

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

Case No. 18-33911 maw

In re: Stephanie
Sue Saba

Chapter 7

Judge Mary Ann Whipple

MOTION OF E. KIRK ROSS,
TRUSTEE, FOR RELIEF FROM
STAY

Now comes E. Kirk Ross, Trustee of the Norma Stark Trust, u/a/d 11/14/2007 (the “Movant”) and hereby moves this court for an order under Bankruptcy Code §§ 361, 362, 363, and other sections of Title 11 of the United States Code, and under Federal Rules of Bankruptcy Procedure 4001 and 6007 for an order modifying or dissolving the automatic stay imposed by Bankruptcy Code § 362.

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334.

This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this motion is proper under 28 U.S.C. §§ 1408 and 1409.

2. On or around June of 2018, the Debtor *without permission of the Movant*, moved into property owned by the Movant, such property specifically located at 345 W. South Boundary, Perrysburg, Ohio 43551.

3. Debtor has been asked to leave the property on numerous occasions.

4. Debtor has never been asked to pay rent or to sign a lease.

5. Movant is not attempting to collect rent from the Debtor nor is Movant seeking any monetary compensation from Debtor.

6. Debtor refuses to vacate the premises.

7. Debtor has *no equitable interest* in the property, however, Movant determined Debtor to be an “occupier” under Ohio Rev. Code 1923.02, and thus was required to file an eviction process to remove Debtor from the premises.

8. On or around November, 27, 2018, Movant filed an eviction action in the Perrysburg Municipal Court, specifically case number 1801734.

9. The case was scheduled for hearing on December 18, 2018 before the Perrysburg Municipal Court, *but such matter was stayed due to the Debtor filing this case on the same date.*

10. Movant seeks relief from the automatic stay as Movant is not seeking any money from the Debtor and will release Debtor from any claims for future damages, if any.

WHEREFORE, Movant prays for an order from the Court:

(a) granting Movant relief from the automatic stay of Bankruptcy Code § 362 to

permit Movant to proceed with the eviction in Perrysburg Municipal Court;
and,

(b) dismissing Movant from this action as a non interested party with no claims
against the Debtor

Respectfully submitted.


/s/Jennifer J. Antonini (0046643)

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Ltd.

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CERTIFICATE OF SERVICE

The undersigned certifies that on January 10, 2019, a true and correct copy of the foregoing Motion for Relief from Stay was served via the Court's electronic case filing system on the following who are listed on the Court's Electronic Mail Notice List:

Doug Dymarkowski, Trustee, 5431 Main St., Sylvania, Ohio 43560, doug-dadlaw@bex.net

Gary Horn, attorney for Debtor, 4325 Wyllys Parkway, Toledo, OH 43612,
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/s/ Jennifer J. Antonini, (0046643) Attorney for Movant